

STATE OF MICHIGAN
COURT OF APPEALS

MARLENE DICKEY,

Plaintiff-Appellee,

v

GREENFIELD DIE & MANUFACTURING
CORPORATION,

Defendant-Appellant.

UNPUBLISHED

August 17, 1999

No. 206269

Wayne Circuit Court

LC No. 96-647329 CZ

Before: Sawyer, P.J., and Holbrook, Jr., and W. E. Collette,* JJ.

PER CURIAM.

Defendant appeals by leave granted the trial court's order denying its motion for summary disposition. We reverse and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff worked for defendant as a machine operator. Her job required her to use vibrating tools. After plaintiff developed numbness in her right hand and arm, she was restricted from work requiring use of vibrating tools or repetitive use of her right hand. Defendant assigned plaintiff to several different jobs; however, plaintiff developed early signs of carpal tunnel syndrome. She went off work, and received worker's compensation benefits. Subsequently, defendant offered plaintiff a position as a janitor. When plaintiff developed problems with her left hand and arm, her physician took her off work. Defendant terminated plaintiff's employment.

Plaintiff filed suit pursuant to the Michigan Handicappers' Civil Rights Act (HCRA; n/k/a Persons with Disabilities Civil Rights Act), MCL 37.1101 *et seq.*; MSA 3.550(101) *et seq.*, alleging that defendant breached its duty to accommodate her handicap. Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that plaintiff was not handicapped as that term is defined by the HCRA, and that it had no obligation to accommodate plaintiff's restrictions as long as it was willing to pay her worker's compensation benefits. The trial court denied the motion, finding that plaintiff's complaint stated a claim on which relief could be granted, and that questions of

* Circuit judge, sitting on the Court of Appeals by assignment.

fact existed regarding whether plaintiff was handicapped and whether defendant had accommodated plaintiff.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

To recover under the HCRA, a plaintiff must plead and prove: (1) that she is handicapped as defined by the HCRA (a determinable physical or mental characteristic that substantially limits one or more major life activities and is unrelated to the ability to perform the duties of a particular job, MCL 37.1103[e]; MSA 3.550[103][e]); (2) that the handicap is unrelated to her ability to perform the duties of a particular job, with or without accommodation; and (3) that she was discriminated against in one of the ways set forth in the statute. *Hall v Hackley Hosp*, 210 Mich App 48, 53-54; 532 NW2d 893 (1995).

Defendant argues that the trial court erred by denying its motion for summary disposition. We agree, reverse the trial court's decision, and remand for further proceedings. Plaintiff's work-related limitations rendered her physically unable to perform her original job as a machine operator, or any other job, and no reasonable accommodation would make her able to do so. Her work-related condition is directly related to her ability to perform her job. Plaintiff is not handicapped as that term is defined by the HCRA. MCL 37.1103(e); MSA 3.550(103)(e).

When plaintiff became unable to perform her job as a machine operator, the HCRA did not require defendant to transfer plaintiff to a new job. *Rourk v Oakwood Hosp Corp*, 458 Mich 25, 36; 580 NW2d 397 (1998). Although defendant attempted to accommodate plaintiff by reassigning her to various positions, plaintiff could not perform these jobs, and eventually became unable to perform any job for defendant. Plaintiff's assertion that defendant was required to accommodate her in spite of her severe limitations that were directly related to her ability to perform her original job as a machine operator or any other job is without merit. Accommodation in the form of job restructuring applies to only minor or infrequent duties. MCL 37.1210(15); MSA 3.550(210)(15). Accommodations beyond those listed in MCL 37.1210; MSA 3.550(210) must not impose undue hardship on an employer. *Rourk*, *supra*. Given that plaintiff was unable to use her upper extremities, no reasonable accommodation would enable her to perform the essential duties of her job. Given our resolution of the issue on this ground, we have not considered defendant's claim that it had no obligation to accommodate plaintiff's restrictions as long as it was willing to pay her worker's compensation benefits.

The trial court's order denying defendant's motion for summary disposition is reversed, and this case is remanded to the trial court for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ David H. Sawyer
/s/ Donald E. Holbrook, Jr.
/s/ William E. Collette